

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

| | | |
|------------------------|---|-----------------------------|
| OPENWAVE SYSTEMS INC., | : | |
| | : | |
| Plaintiff, | : | |
| | : | |
| v. | : | Civil Action No. 11-765-RGA |
| | : | |
| APPLE INC., et al., | : | |
| | : | |
| Defendants. | : | |

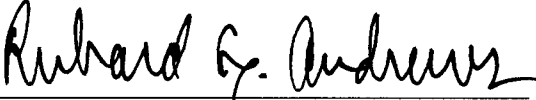
ORDER

Plaintiff's Motion for Leave to Amend Complaint (D.I. 23) is **GRANTED**. Defendants' Joint Motion to Dismiss (D.I. 12) is therefore **DISMISSED AS MOOT**. Defendants raise a number of issues in objecting to Plaintiff's Motion for Leave to Amend. (D.I. 29). Many of them are well-taken. Therefore, the claims of (1) willfulness and (2) contributory infringement are **DISMISSED**. The claims of induced infringement are limited to the time period subsequent to when a Defendant was provided notice of the original Complaint in this case.

The Court directs the parties to discuss whether the next step in the case should be for the Court to resolve whether it can or should adopt the ITC ALJ's claims construction rulings.¹ To that end, the parties are directed to submit a joint report about how to proceed no later than two weeks from the date of this Order.

6-28-13

Date



United States District Judge

¹ The Court would appreciate being advised of any authorities that address the propriety of the Plaintiff getting two bites at the Apple on claim construction.